

105TH CONGRESS  
2D SESSION

# H. R. 4088

To amend the Indian Health Care Improvement Act to make permanent the demonstration program that allows for direct billing of Medicare, Medicaid, and other third-party payors, and to expand the eligibility under such program to other tribes and tribal organizations.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 18, 1998

Mr. YOUNG of Alaska (for himself and Mr. KILDEE) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Indian Health Care Improvement Act to make permanent the demonstration program that allows for direct billing of Medicare, Medicaid, and other third-party payors, and to expand the eligibility under such program to other tribes and tribal organizations.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Alaska Native and  
5 American Indian Direct Reimbursement Act of 1998".

1 SEC. 2. FINDINGS.

2 Congress finds the following:

3 (1) In 1988, Congress enacted section 405 of  
4 the Indian Health Care Improvement Act (25 U.S.C.  
5 1645) that established a demonstration program to  
6 authorize 4 tribally operated Indian Health Service  
7 hospitals or clinics to test methods for direct billing  
8 and receipt of payment for health services provided  
9 to patients eligible for reimbursement under the  
10 medicare or medicaid programs under titles XVIII  
11 and XIX of the Social Security Act (42 U.S.C. 1395  
12 et seq.; 1396 et seq.), and other third-party payors.

13 (2) The 4 participants selected by the Indian  
14 Health Service for the demonstration program began  
15 the direct billing and collection program in fiscal  
16 year 1989 and unanimously expressed success and  
17 satisfaction with the program. Benefits of the pro-  
18 gram include dramatically increased collections for  
19 services provided under the medicare and medicaid  
20 programs, a significant reduction in the turnaround  
21 time between billing and receipt of payments for  
22 services provided to eligible patients, and increased  
23 efficiency of participants being able to track their  
24 own billings and collections.

25 (3) The success of the demonstration program  
26 confirms that the direct involvement of tribes and

1 tribal organizations in the direct billing of, and col-  
2 lection of payments from, the medicare and medicaid  
3 programs, and other third-party payor reimburse-  
4 ments, is more beneficial to Indian tribes than the  
5 current system of Indian Health Service-managed  
6 collections.

7 (4) Allowing tribes and tribal organizations to  
8 directly manage their medicare and medicaid billings  
9 and collections, rather than channeling all activities  
10 through the Indian Health Service, will enable the  
11 Indian Health Service to reduce its administrative  
12 costs.

13 (5) The demonstration program was originally  
14 to expire on September 30, 1996, but was extended  
15 by Congress to September 30, 1998, so that the cur-  
16 rent participants would not experience an interrup-  
17 tion in the program while Congress awaited a rec-  
18 ommendation from the Secretary of Health and  
19 Human Services on whether to make the program  
20 permanent.

21 (6) It would be beneficial to the Indian Health  
22 Service and to Indian tribes, tribal organizations,  
23 and Alaska Native organizations to provide perma-  
24 nent authorization for direct billing and collection  
25 and to extend participation in direct billing and col-

1       lection to other Indian tribes, tribal organizations,  
 2       and Alaska Native health organizations who operate  
 3       a facility of the Indian Health Service.

4   **SEC. 3. DIRECT BILLING OF MEDICARE, MEDICAID, AND**  
 5       **OTHER THIRD-PARTY PAYORS.**

6       (a) PERMANENT AUTHORIZATION.—Section 405 of  
 7   the Indian Health Care Improvement Act (25 U.S.C.  
 8   1645) is amended to read as follows:

9   **“SEC. 405. DIRECT BILLING OF MEDICARE, MEDICAID, AND**  
 10       **OTHER THIRD PARTY PAYORS.**

11       “(a) ESTABLISHMENT OF DIRECT BILLING PRO-  
 12   GRAM.—

13       “(1) IN GENERAL.—Indian tribes, tribal organi-  
 14       zations, and Alaska Native health organizations that  
 15       contract or compact for the operation of any health  
 16       program of the Service under the Indian Self-Deter-  
 17       mination and Education Assistance Act may elect to  
 18       directly bill for, and receive payment for, health care  
 19       services provided by such health programs for which  
 20       payment is made under title XVIII of the Social Se-  
 21       curity Act (42 U.S.C. 1395 et seq.) (in this section  
 22       referred to as the ‘medicare program’), under a  
 23       State plan for medical assistance approved under  
 24       title XIX of the Social Security Act (42 U.S.C. 1396

et seq.) (in this section referred to as the 'medicaid program'), or from any other third-party payor.

“(2) APPLICATION OF 100 PERCENT FMAP.—

The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) shall apply for purposes of reimbursement under the medicaid program for health care services directly billed under the program established under this section.

“(b) DIRECT REIMBURSEMENT.—

“(1) USE OF FUNDS.—Each health program participating in the program described in subsection (a) of this section shall be reimbursed directly under the medicare and medicaid programs for services furnished, without regard to the provisions of section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) and sections 402(a) and 813(b)(2)(A), but all funds so reimbursed shall first be used by the health program for the purpose of making any improvements in the health facilities or programs that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities or health programs of such type under the medicare or medicaid programs. Any funds so reimbursed which are in excess of the

1 amount necessary to achieve or maintain such condi-  
2 tions shall be used—

3 “(A) solely for improving the health re-  
4 sources deficiency level of the Indian tribe; and

5 “(B) in accordance with the regulations of  
6 the Service applicable to funds provided by the  
7 Service under any contract or compact entered  
8 into under the Indian Self-Determination Act  
9 (25 U.S.C. 450f et seq.).

10 “(2) AUDITS.—The amounts paid to the health  
11 programs participating in the program established  
12 under this section shall be subject to all auditing re-  
13 quirements applicable to programs administered di-  
14 rectly by the Service and to facilities participating in  
15 the medicare and medicaid programs.

16 “(3) NO PAYMENTS FROM SPECIAL FUNDS.—  
17 Notwithstanding section 1880(c) of the Social Secu-  
18 rity Act (42 U.S.C. 1395qq(c)) or section 402(a), no  
19 payment may be made out of the special funds de-  
20 scribed in such sections for the benefit of any health  
21 program during the period that the health program  
22 participates in the program established under this  
23 section.

24 “(c) REQUIREMENTS FOR PARTICIPATION.—

1           “(1) CERTIFICATION.—Except as provided in  
2       paragraph (2)(B), in order to be eligible for partici-  
3       pation in the program established under this section,  
4       an Indian tribe, tribal organization, or Alaska Na-  
5       tive health organization shall submit a certification  
6       to the Secretary that—

7           “(A) the Indian tribe, tribal organization,  
8           or Alaska Native health organization contracts  
9           or compacts for any part of the operation of a  
10          health program of the Service; and

11          “(B) the health program is eligible to partici-  
12          pate in the medicare or medicaid programs  
13          under section 1880 or 1911 of the Social Secu-  
14          rity Act (42 U.S.C. 1395qq; 1396);

15          “(2) GRANDFATHER OF DEMONSTRATION PRO-  
16          GRAM PARTICIPANTS.—Any participant in the pro-  
17          gram authorized under this section as in effect on  
18          the day before the date of enactment of the Alaska  
19          Native and American Indian Direct Reimbursement  
20          Act of 1998 shall be deemed to have elected to par-  
21          ticipate in the program established under this sec-  
22          tion and shall not be required to submit a certifi-  
23          cation in order to participate in the program.

24          “(3) DURATION.—A certification to the Sec-  
25          retary of a qualified application under paragraph

1       (1), or a deemed certification of a demonstration  
2       program under paragraph (2), shall continue in ef-  
3       fect as long as the participant meets the require-  
4       ments of this section.

5       “(d) EXAMINATION AND IMPLEMENTATION OF  
6 CHANGES.—The Secretary, acting through the Service  
7 and with the assistance of the Administrator of the Health  
8 Care Financing Administration, shall examine on an ongo-  
9 ing basis and implement any administrative changes that  
10 may be necessary to facilitate direct billing and reimburse-  
11 ment under the program established under this section,  
12 including any agreements with States that may be nec-  
13 essary to provide for direct billing under the medicaid pro-  
14 gram.

15       “(e) WITHDRAWAL FROM PROGRAM.—A participant  
16 in the program established under this section may with-  
17 draw from participation in the same manner and under  
18 the same conditions that a tribe or tribal organization may  
19 retrocede a contracted program to the Secretary under au-  
20 thority of the Indian Self-Determination and Education  
21 Assistance Act (25 U.S.C. 450 et seq.). All cost account-  
22 ing and billing authority under the program established  
23 under this section shall be returned to the Secretary upon  
24 the Secretary’s acceptance of the withdrawal of participa-  
25 tion in this program.”.



1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 1990 of the Social Security Act (42  
3 U.S.C. 1395qq) is amended by adding at the end the  
4 following:

5 “(e) Section 405 of the Indian Health Care Improve-  
6 ment Act (25 U.S.C. 1645) containing provisions relating  
7 to the authority of certain Indian tribes, tribal organiza-  
8 tions, and Alaska Native health organizations to elect to  
9 directly bill for, and receive payment for, health care serv-  
10 ices provided by a health program of such tribes or organi-  
11 zations and for which payment may be made under this  
12 title shall apply.”; and

13 (2) Section 1911 of the Social Security Act (42  
14 U.S.C. 1396j) is amended by adding at the end the  
15 following:

16 “(d) Section 405 of the Indian Health Care Improve-  
17 ment Act (25 U.S.C. 1645) containing provisions relating  
18 to the authority of certain Indian tribes, tribal organiza-  
19 tions, and Alaska Native health organizations to elect to  
20 directly bill for, and receive payment for, health care serv-  
21 ices provided by a health program of such tribes or organi-  
22 zations and for which payment may be made under this  
23 title shall apply.”.



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- 1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect on October 1, 1998.

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